S.B.Criminal Revision Petition No.390/2007

Rajendra Kumar Jangid

versus

Union of India

Date of Order :: 8th December, 2007

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. Anand Purohit, for the petitioner.
Mr. Panney Singh, for the respondent.

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By this petition under Section 397 read with 401 Cr.P.C. examination of record of the proceedings giving rise to framing of charge against the petitioner for the offences under Sections 468, 471, 477-A, 381 IPC and Section 7, 13(1)(d) and 13(2) of the Prevention of Corruption Act under the order dated 26.2.2007 passed by learned Special Judge, CBI Cases, Jodhpur, is sought.

In brief, facts of the case are that on 11.8.1999 at about 1200 hours Shri Ashok Pareek alongwith seven other persons appeared in the office of the Superintendent of Police, SPE/CBI, Jodhpur and submitted a written complaint stating therein that the officers of Doordarshan Maintenance Center, Jodhpur were holding written examinations and interviews for the purpose of appointment to the post of Technician

by adopting corrupt practices. On secret verification of the complaint referred above, it was revealed that the Doordarshan Maintenance Center, Jodhpur conducted written examination for recruitment to the post of Technician, result of that was declared on 11.8.1999, wherein one Shri Anand Choora by abusing his official position and in criminal conspiracy with Sarva Shri Rajesh Panwar, Dhan Singh and many others changed the answer sheets of Rajesh Panwar and certain other candidates who appeared in the said examination. A case accordingly was registered against the accused persons under Sections 120-B read with 465, 471, 477-A IPC and 13(2) read with 13(1)(d) of the Prevention of Corruption Act and 511 IPC.

After regular investigation a police report was submitted against the accused persons including the petitioner for the offences under Sections 468, 471, 477-A, 381 IPC and Section 7, 13(1)(d) and 13(2) of the Prevention of Corruption Act. Learned Special Judge, CBI Cases, Jodhpur by order impugned dated 26.2.2007 framed charges against the petitioner alongwith other accused persons, hence this revision petition is preferred.

The contention of counsel for the petitioner is that there is no evidence available on record on basis of that a prima facie opinion could be made to draw presumption of any offence warranting trial

against the petitioner. It is asserted that only evidence said to be available on record is a statement given by Shri Ramchandra Soni under Section 161 Cr.P.C. alleging an extra judicial confession by the petitioner before him. According to counsel for the petitioner no such extra judicial confession was ever made by the petitioner and by no stretch of imagination such statement can be treated as an extra judicial confession.

I have examined the order impugned as well as the entire record of the case that is available in pursuant of the order passed by this Court on 28.5.2007. From record, I found that in police report itself an allegation is there that the answer sheet of the petitioner is having tick marking from both the hands whereas the applicant is a left hander. The relevant portion of the charge sheet reads as follows:-

> "अनुसन्धान से यह भी पाया गया कि अभ्यर्थी श्री राजेन्द्र कुमार जांगिड़ बांये हाथ से लिखता था एवं----- उल्टे टिक मार्क करता था जबकि उसकी उत्तर पुस्तिका में दाहिनं व बांये दोनों हाथों से दोनों। प्रकार के टिक मार्क पाये गये एवम् डबल मार्क होने पर भी अंक दिये गये। यह कापी श्री शशिकांत अग्निहोत्री द्वारा जांची गई जिसमें बाद में री एन.के. यादव से उन प्रश्नों के लिए हस्ताक्षर करवा लिये!"

I have also gone through the statement of Shri Ramchandra Soni that in its totality reads as follows:-

"बयान करता हूं कि मेरा साला महेन्द्र सोनी S/O श्री गोवर्धन सोनी R/O महामंदिर, नया बास, जोधपुर तकनीशियन के पद पर लिखित परीक्षा हेतु परीक्षार्थी था। मैं श्री राजेन्द्र जांगिड अजमेर निवासी को जानता हूं। यह राजेन्द्र जांगिड़ ITI बाड़मेर से किया और जब वह ITI बाड़मेर से कर रहा था तो मेरे मित्र विजय सोनी, Instrjucter, ITI, बाड़मेर के घर पर कई बार मिला। राजेन्द्र जांगिड़ ITI में फेल भी हुआ है। 10.8.99 को मैं जोधपुर मे ही था व अपने साले महेन्द्र सोनी को केन्द्रीय विद्यालय, आर्मी एरिया में परीक्षा केन्द्र में छोड़ने गया था वहीं राजेन्द्र जांगिड़ भी मिला क्योंकि वह भी परीक्षा तकनीशियन दूरदर्शन में परीक्षार्थी था। 11.8.99 को भी मैं जोधपुर ही था और अपने साले के साथ DMC, Polo Ist, जोधपुर कार्यालय में परीक्षा परिणाम देखने आया था। वहीं श्री राजेन्द्र जांगिड़ भी परीक्षा परिणाम देखने आया था। मेरा साला फेल हो गया व राजेन्द्र जांगिड़ पास हो गया। चूंकि मेरा साला काफी intelligent है व मैं जानता हूं कि राजेन्द्र जांगिड़ उससे कम intelligent है व ITI में फेल भी हुआ था तो मुझे शक हुआ कि दाल मे काला है। सो मैंने राजेन्द्र जांगिड़ को विश्वास में लेकर पूछा कि उसने कैसे अपने को पास कराया तो उसने बताया कि श्री विजय सोनी, ITI, Instructer, Barmer के ITI class fellow श्री शशिकान्त Sr. Technician, Doordarshan, Jodhpur हैं व श्री विजय सोनी ने करीब एक महिने पहिले श्री शशिकान्त को मिलकर उसे (जांगिड) पास कराने को कहा था व शशिकान्त ने इसके लिए रू. 50,000/- रिश्वत मांगे थे जो उसने परीक्षा से पूर्व शशिकान्त को घर पर जाकर दे दिए। श्री विजय सोनी ने शशिकान्त का घर बताया था।

अत: शशिकान्त ने जुगाड़ करके उसे पास करा दिया। मैं 11.8.99 को वापस शाम को बाड़मेर पहुंच गया और दो/ तीन दिन बाद श्री विजय सोनी से मुलाकात हुई तो उसने भी कहा कि वह राजेन्द्र जांगिड़ को अपने Class fellow (ITI) श्री शशिकान्त, Sr. Technician, Doordarshan, Jodhpur से स्वयं जोधपुर घर पर मिलवाया था व उसकी परीक्षा में पास करवाने में सहायता मांगी थी तो उसने रू. 50,000/- मांगे थे। मैंने (विजय सोनी) फिर जांगिड़ को कहा कि वह श्री शशिकान्त को जैसा उसने कहा है परीक्षा पूर्व रू. 50,000/- स्वयं दे दे जाकर।"

The question as to whether the statements of Shri Ramchandra Soni under Section 161 Cr.P.C., contains an extra judicial confession of the petitioner, can be decided only during the trial and not while framing the charge. Beside that, the allegation regarding tick marking of correct answers by both the hands is also alleged in police report. In view of it, it cannot be said that no evidence is available sufficient to prima facie draw a presumption to proceed with trial against the petitioner for the charges framed.

I do not find any error in the order impugned, thus, the revision petition is dismissed. However, looking to the fact that the question relates to the year 1999, it is desirable to direct the trial court to proceed with the trial of the case as expeditiously as possible and to conclude the same at earliest as far as possible within a period of six

months from today. The record called for under the order dated 28.5.2007 be sent to the trial court forthwith.

(GOVIND MATHUR),J.

Kkm/ps.